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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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12 MASTEROBJECTS, INC.,

13 Plaintiff,

14 v.
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16 EBAY, INC.,

17 Defendant.
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Case No.: 3:12-cv-680 JSC

**SECOND ORDER RE:
ADMINISTRATIVE MOTION TO
SEAL (Dkt. No. 90)**

19 The Court previously denied Plaintiff MasterObjects, Inc.’s (“MasterObjects”) Administrative Motion to File Under Seal a Joint Letter Brief regarding MasterObjects’
20 request to compel Defendant eBay, Inc. (“eBay”) to produce certain damages documents
21 (Dkt. No. 90) and eighteen exhibits submitted therewith for failure to comply with Local Rule
22 79-5. (Dkt. No. 96.) The Court found that eBay, as the as the party asserting that the
23 documents were confidential, failed to establish that the documents were in fact confidential
24 as it: (1) failed to file “a declaration as required by subsection 79-5(d)(1)(A) establishing that
25 all of the designated material is sealable” *see* L.R. 79-5(e)(1); and (2) did not “narrowly
26 tailor” the request for sealing, and instead, sought to file the *entire* joint statement and
27 exhibits under seal, *see* L.R. 79-5(b).
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1 eBay subsequently submitted a declaration in support of sealing (Dkt. No. 100);
2 however, the declaration fails to address the second grounds for the Court's prior Order, and
3 instead, continues to maintain that the entire Joint Statement and eighteen exhibits submitted
4 therewith should be sealed. This request violates Rule 79-5(b)'s requirement that a request
5 for sealing be narrowly tailored. While certain trade secret documents and the facts discussed
6 therein may in fact be confidential, the parties' legal arguments in the joint statement are not
7 confidential nor is every portion of every exhibit. For example, the Court fails to see how the
8 email at Docket No. 90-10 contains confidential information "describing planning, analytics
9 and development of eBay's website." (Dkt. No. 100 at 3.) Likewise, the entire six page
10 email at Docket No. 90-11 cannot be said to contain confidential information "describing
11 planning, analytics and development of eBay's website." (*Id.*) To the extent these and other
12 emails may contain some confidential information, eBay has wholly failed to establish good
13 cause to redact all the information including the email recipients and the date and time of the
14 emails. Further, with respect to deposition testimony, while portions of the testimony may be
15 confidential because they describe the "technical operation and analytics of eBay's website"
16 (*id.* at 4), it is not evident why this confidentiality applies to those portions of the testimony
17 where the deponent is identifying other employees or departments within eBay, nor does it
18 apply to colloquies between counsel. (*See, e.g.*, Dkt. No. 90-23 at 81:18-24, 82:8-20.)

19 Accordingly, the motion to seal at Docket No. 90 is DENIED for a second time. eBay
20 has until Monday, November 4, 2013, to file a declaration which comports with Local Rule
21 79-5 and addresses the issues raised herein. If eBay fails to timely file a declaration,
22 MasterObjects shall file (1) the unredacted Joint Statement, (2) Exhibits 1-15 to the
23 Declaration of Spencer Hosie in Support of Motion to Compel Production of Damages
24 Documents, and (3) Exhibits 1-3 to the Declaration of Christopher Shield in Opposition to
25 Motion to Compel Production of Damages Documents on the public docket **in accordance**
26 **with Local Rule 79-5(e)(2).**

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IT IS SO ORDERED.

Dated: October 31, 2013



JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE